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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,155	10/17/2003	Keith O'Hair	OHAI-1-1002	9224
25315	7590	10/19/2006	EXAMINER	
BLACK LOWE & GRAHAM, PLLC 701 FIFTH AVENUE SUITE 4800 SEATTLE, WA 98104			MAI, TRI M	
			ART UNIT	PAPER NUMBER
			3781	

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/688,155	O'HAIR, KEITH	
	Examiner	Art Unit	
	Tri M. Mai	3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 10-13, 21, 30, 31, 34, 37, 38, 44 and 45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 14-20, 22-29, 32, 33, 35, 36 and 39-43 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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1. Claims 10-13, 21, 30, 31, 34, 37-38, 44, and 45 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention as previously set forth.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the gummy material must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show how the lips are constructed to be raised as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required

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in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. Claims 6 and 43 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is unclear how the lips on the stretchable bands are raised, and the specification is silent in this matter of how the stretchable bands are constructed to be raised at the lips Applicant to provide a cross section at the lip to show this construction. Note the drawing objection.

5. Claims 1, 2, 3, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Balzano (5056661). Balzano teaches an arm band and a tool holder having at least a magnet 42.

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6. Claims 1, 2, 3, 4, 14, 15, 28, and 39-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Larkin et al. Larkin teaches an arm band with magnets as claimed.
7. Claims 1, 6, 7, 9, 22, 23, and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by McKittrick (2749000). McKittrick teaches an apparatus having a band along with a band with raised lip (note fig. 4). Note the bands in McKittrick are stretchable as claimed. The term stretchable does not exclude one being flexible.
8. Claims 1-5, 14, 15, 28, 29, 39, 40, 41, are rejected under 35 U.S.C. 102 (b) as being anticipated by Finnegan (5593073). Finnegan teaches an armband having at least one tool holder attached to the arm band with the magnet removable from the band (col. 2, ln. 19).
9. Claims 1, 16, 17, 18, 19, 32, 33, 35, 39, 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Bowie et al. (452830). Bowie teaches a flexible arm wrap A, a plurality of attachment points at L and C, and a tool holder (the purse) that can hold a socket wrench as claimed.
10. Claim 20, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowie in view of Nelson (3682216). It would have been obvious to one of ordinary skill in the art to provide a magnet in the tool holder to enable one to hold additional contents.
11. Claim 1-2, 6, 7, 8, 14, 22, 23, 39, and 41-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Frye et al. (70481625). Frye teaches elastic straps 28 and the strap includes a raised lip (note at 30').
12. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frye in view of Pond. It would have been obvious to one of ordinary skill in the art to provide different size band as taught by Pond to accommodate different types of contents.

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13. Claims 22, 23, 24, 25, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frye in view of Hunt (5427239). It would have been obvious to one of ordinary skill in the art to provide overlapping bands in the embodiment of Fig. 5, as taught by Hunt to accommodate additional contents.

14. Claims 1, 6, 7, 9, 14, 22, 23, 32, 39, 41, 42, and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Bass (2881441). Bass teaches a strap having a plurality of stretchable bands
94.

Regarding claim 9, note the raised lip (adjacent to the connector at 96).

15. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bass or Frye. Official notice is taken teaches that it is known in the art to provide an elastic band from either plastic or rubber to provide the desired material for the elastic bands.

16. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frye or McKittrick in view of either Baumann, Jr. (3360224) or Smithers et al. (3480012). It would have been obvious to one of ordinary skill in the art to provide a soft rubber liner as taught by Baumann or Smithers to strengthen the device.

17. Claims 1, 2, 6-9, 14, 22, 23, 32, 33, 35, 39, 41, 42, and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Baird (5842584). Baird teaches a band and a tool holder removably attached as claimed (col. 3, ln. 52).

Regarding claim 6, each of the loops in Baird comprises one bad as claimed, and there are at least several that are spaced apart.

Regarding claim 8, note the liner at 24.

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18. Claims 3, 4, 5, 15, 28, 29,36, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baird '584 in view of Henderson (6702112). It would have been obvious to one of ordinary skill in the art to provide a tool holder with magnets 36 to provide an alternative tool holder.

19.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Tri M. Mai
Primary Examiner
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